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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re E.M., a Person Coming Under the
Juvenile Court Law.

SAN BERNARDINO COUNTY
CHILDREN AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

L.M.,

Defendant and Appellant.

E072062

(Super.Ct.No. J273311)

OPINION

APPEAL from the Superior Court of San Bernardino County. Christopher B. Marshall, Judge. Affirmed.

William Hook, under appointment by the Court of Appeal, for Defendant and Appellant.

Michelle D. Blakemore, County Counsel, Svetlana Kauper, Deputy County Counsel for Plaintiff and Respondent.

Defendant and appellant L.M. (Mother) appeals after the termination of her parental rights to E.M. (Minor) at a Welfare and Institutions Code section 366.26 hearing.¹ Mother makes one claim on appeal, that the juvenile court erred when it denied her section 388 petition without a full and fair hearing.

FACTUAL AND PROCEDURAL HISTORY²

A. DETENTION

On September 24, 2017, the Department received a referral that Mother was prostituting herself while Minor was in the room with her. On other occasions, she left Minor with her pimp while she engaged in prostitution. On October 6, 2017, a social worker from the Department met with Mother and Mother's friend, C.S. (Friend) at the Department's offices.

Mother admitted that she engaged in prostitution but denied that Minor was in the room or was left with her pimp. Mother did express that she previously had concerns that Minor may have been sexually assaulted but an exam revealed no sexual assault; Minor was instead diagnosed with severe constipation. Mother was homeless and moved between hotels. She had to engage in prostitution to pay for the rooms. She had no contact with A.M. (Father), who she claimed was Minor's father, since he put a gun to her head and threw gasoline on her.

¹ All further statutory references are to the Welfare and Institutions Code.

² On August 28, 2018, this court dismissed Mother's request to file a writ petition pursuant to California Rules of Court, rule 8.452, as her counsel represented that there were no legal or factual reasons supporting an extraordinary writ. On February 14, 2019, we ordered the record in case No. E070947 incorporated with the present appeal.

Friend met privately with the social worker and reported that Mother was lying. Mother left Minor with her pimp and Friend was also concerned Minor had been sexually assaulted.

On October 12, 2017, Mother was arrested for prostitution. Maternal aunt, J.W. (Aunt) had custody of Minor. Friend had custody of Minor for one week and Mother never visited; Friend got permission from Mother to leave Minor with Aunt. Friend reported that Mother had been beaten by her pimp in front of Minor. Aunt reported Mother had been previously diagnosed with bipolar disorder, ADHD and anxiety. She was prescribed medication but refused to take it. Friend reported she had witnessed Mother leave Minor with “random people” so she could prostitute.

The Department discovered a previous referral for Mother on June 8, 2017. It was reported Father punched Mother in the face while she was holding Minor. Father used drugs, including PCP. Mother was instructed by the Department to obtain a restraining order against Father. She obtained a temporary restraining order but did not appear at a court hearing to file the temporary restraining order. The referral was closed due to lack of prosecution. Mother had 11 prior arrests for prostitution.

Minor was ordered detained on October 13, 2017, and placed with Aunt. A sexual assault exam was performed on Minor but there was no physical evidence of sexual abuse.

On October 17, 2017, plaintiff and respondent San Bernardino County Department of Children and Family Services (Department) filed a section 300 petition against Mother and Father (Parents) for two-year-old Minor.³ It was alleged pursuant to section 300, subdivision (b)(1), failure to protect, that (1) Mother had a mental illness that impaired her ability to care for Minor; (2) Minor was exposed to domestic violence between Parents; (3) Father had a substance abuse problem; (4) Mother's unsafe lifestyle placed Minor at risk of abuse and neglect; and (5) Parents had engaged in criminal activity endangering Minor. Further, it was alleged against both Mother and Father pursuant to section 300, subdivision (g) that they had left Minor with no care or support.

The detention hearing was conducted on October 18, 2017. Mother reported no Indian ancestry. Mother's counsel reported that Aunt was not related to Mother or Minor; Mother and Aunt were foster siblings. Mother objected to placement with Aunt; she wanted Minor placed with Friend. The juvenile court found that Minor should remain with Aunt. It found a prima facie case was established for detention outside the home with Aunt. Aunt was named a NREFM. Mother was certain Father was Minor's father.

B. JURISDICTION/DISPOSITION REPORTS AND HEARING

The jurisdiction/disposition report was filed on November 7, 2017. The Department recommended reunification services be granted to Mother and that the allegations in the petition against Mother be found true. Father was only an alleged

³ Father is not a party to this appeal.

father and no reunification services were recommended. Minor remained placed with Aunt.

Mother was interviewed on October 24, 2017. Mother denied that she gave Aunt permission to care for Minor. Aunt was plotting against her to gain custody of Minor. Mother was uncertain as to any previous mental illness diagnosis. However, in 2015, when there was a prior referral, Mother had admitted taking medication and seeing a psychiatrist for her mental illness. Mother admitted that Father had beat her and held a gun to her head while she was holding Minor. Mother was living in a hotel in San Bernardino. She had been forced to engage in prostitution because she needed money for housing. She had a current case pending for prostitution. Mother was angry during the interview and had trouble staying on topic. Mother was taken from her own mother and adopted when she was two years old. She did not get along well with her adoptive siblings. Mother had been raped when she was 16 years old and had 13 miscarriages prior to giving birth to Minor. Her relationship with Father had deteriorated when he started using drugs. Mother was willing to “do whatever it takes to get her daughter back.”

Aunt reported that on October 24, 2017, she had been at church with Minor, when Mother arrived and tried to take Minor from Aunt’s car. Church members intervened and Aunt planned on attending a different church until “things settle down” with Mother. Aunt reported that in the past Mother had refused to take her medication. Friend denied that she ever told the Department that Mother was lying, or that Mother had left Minor with her pimp.

A report regarding the sexual assault exam was included with the jurisdiction/disposition report but it “neither confirmed nor negated sexual abuse.” Minor was referred to SART for an examination to determine her emotional and developmental needs. Mother had a visit with Minor on October 30, 2017, and she was very loving and appropriate. Mother complained about the care being provided to Minor by Aunt.

On November 8, 2017, the jurisdiction/disposition hearing was continued to complete paternity testing but as of December 13, 2017, Father had not submitted to a paternity test and attempts to follow up with Father were unsuccessful. Mother was arrested for prostitution on October 30, 2017. She had two negative drug tests on October 24 and November 13, but then tested positive for marijuana on November 20.

The jurisdiction/disposition hearing was conducted on December 13, 2017. Mother admitted the allegations that she had a mental illness, which impaired her ability to care for Minor, and that Minor was exposed to domestic violence between Parents. The allegations that Mother’s unsafe lifestyle placed Minor at risk of abuse and neglect, that Mother had engaged in criminal activity endangering Minor, and that she left Minor without care or support were dismissed. Mother was granted reunification services not to exceed six months. Minor was to remain detained from Mother.

C. STATUS REVIEW REPORTS AND HEARING

The six-month status review report was filed on June 4, 2018. It was recommended that Mother’s reunification services be terminated and that a permanent plan of adoption with Aunt be ordered. Minor remained in the concurrent planning home

of Aunt. The Department reported that Mother had only sporadically participated in her services and had not shown she benefitted from the services.

On January 25, 2018, Mother signed a case plan that included finding a legal source of income, not engaging in criminal activity, participating in a psychological assessment, undergoing counseling, participating in a domestic violence program, parenting education, and random drug testing. On April 6 Mother was seen by a psychologist who diagnosed “Post Traumatic Stress Disorder, Avoidant/Restrictive Food Intake Disorder and Cannabis Use Disorder.” It was recommended she attend therapy, take anger management courses, have a medication consultation and random drug test. Mother moved on April 12 and did not provide the address to the Department.

As of April 9, 2018, Mother had attended eight individual therapy sessions. The therapist reported slow progress due to Mother’s distrust of others and it was recommended she continue therapy. Mother missed three sessions in April 2018. Mother completed a 12-class domestic violence course on May 22, 2018. Mother had attended some parenting classes but had more classes to complete. Between December 2017 and March 2018 Mother had six positive marijuana tests, two negative tests, and three missed tests; consequently, she was ordered to obtain outpatient substance abuse treatment. She attended seven classes and needed to complete 36. Mother failed to provide documentation that she was attending AA meetings. The Department sought to have Mother participate in anger management classes in March 2018 but had been unable to contact Mother.

Mother had been arrested for prostitution three times during the reporting period (October 31, 2017; March 31 and May 3, 2018). Mother refused to participate in substance abuse treatment because marijuana was a stress reliever. Mother lived in four different locations during the reporting period.

On February 8, 2018, Mother got into a physical and verbal altercation with Aunt during a visit with Minor. Mother reported on April 17, 2018, that she moved to Blythe because she was “not doing good at all” and needed to get out of San Bernardino to “take care of herself.” Mother no longer wanted to participate in her services or visitation with Minor; since that time, the Department had no communication with Mother.

As for visitation, a visit was held on October 30, 2017. Mother was very emotional at the beginning and end of the visit. She made several comments about how displeased she was at the care Aunt was providing to Minor. Mother was appropriate during a visit on November 6 but during a visit on November 13 Mother told the social worker “Let me kidnap your kids and see how you feel.” At the next visit, Mother announced to other persons present at the visitation center that the Department had kidnapped her child. Mother became very emotional at the end of visits on November 27, 2017, and January 23, 2018, which greatly distressed Minor. During a visit on February 1, 2018, which had been moved to another visitation center at Mother’s request, Mother got upset and screamed at the visitation coach when she tried to direct Mother. On February 8 Mother violated visitation center rules and the visit was terminated early. Mother was verbally aggressive with the visitation coach and staff and as a result the center terminated Mother’s right to have visits at the facility.

In March 2018, Mother had phone calls with Minor due to no visitation center availability. Mother and Minor had a positive in-person visit on March 30, although Mother was emotional at the end of the visit. Mother failed to show up for visitation on March 30 and April 13 and Minor was visibly upset that Mother failed to show. Mother additionally failed to show for visits on April 20 and April 27, and never contacted the Department to explain her absences.

Minor was being treated for a lazy eye and asthma. She appeared to be “slightly behind” in her development. She had trouble responding to questions and was not potty trained. Minor was also receiving treatment due to anxiety, hyper-vigilance and disrupted sleep due to nightmares; she was referred to a child psychologist. Minor was bonded to Aunt.

Mother appeared at a hearing on June 23, 2018. Mother’s counsel expressed to the juvenile court mother’s belief that there was “serious physical abuse and even potential sexual abuse” occurring in Aunt’s home based on Mother’s observations at a visit; that the social worker was told and a nurse examined Minor and “expressed concern.” Mother’s counsel requested the juvenile court follow up with the Department. An examination of Minor was conducted on July 16 and there were no indications of past, present or ongoing sexual abuse.

An updated report was submitted to the juvenile court on July 19, 2018. Mother failed to show for a scheduled intake appointment for a substance abuse program on July 10. She attended one parenting class, one anger management class and two individual therapy sessions in June 2018. She attended none of her classes in July 2018. Aunt

reported that on July 17 she was contacted by Mother who asked her to adopt Minor. Mother also stated that she would “jump off [a] bridge” and “kill herself” if she did not win in court.

Mother sent a text to the Department on July 17, 2018, complaining about being in a car accident and needing a bus pass; however, when the Department tried to contact her, Mother did not answer the phone. The Department had information that Mother continued to engage in prostitution, including an accidental message left on the social worker’s voicemail arranging a “date” with an unknown man. Mother had been scheduled for 15 random drug tests; she showed for six of the tests and tested positive for marijuana all six times.

At the six-month review hearing conducted on July 23, 2018, Mother requested additional time to engage in reunification services. Mother’s reunification services were terminated by the juvenile court.

D. SECTION 366.26 REPORTS AND HEARING

On September 21, 2018, prior to the Department filing the section 366.26 report, it requested that the juvenile court suspend visitation between Minor and Mother. On July 3, 2018, Mother appeared for a visit with Minor dressed inappropriately, and had a difficult time engaging with Minor. Mother kissed Minor several times directly on the mouth and sucked on Minor’s lips. Due to Mother’s involvement in prostitution, the Department was concerned about Mother kissing Minor directly on the mouth. On July 13 Mother arrived for a visit with a female friend who was clearly under the influence of some kind of substance. Mother was very emotional during the visit, crying several

times. Mother continually asked Minor to kiss her on the cheek to make her feel better. Mother sent text messages to Aunt informing her Mother was going to make Aunt's life miserable and was going to come to her house, despite the Department advising her she could not go to Aunt's house. Mother posted Aunt's address on Facebook and posted that Aunt had kidnapped her daughter. Mother had been arrested and could not attend her monthly visit. Further, she was verbally abusive to the social worker assigned to her. The Department recommended that visitation be suspended.

On October 30, 2018, a hearing was conducted on the suspension of visitation. Mother objected to the suspension of visitation. Her behavior during visitation with Minor was not inappropriate. Further, she had been advised by counsel to not be verbally abusive to the social workers. Mother had not had a visit since late July. Since that time, she had stabilized. She had enrolled in the "Open Door" program as of October 3, 2018, which helped with anti-trafficking and housing; she had been placed in housing on October 9, 2018; she attended AA meetings; and she had a negative drug test.

The juvenile court believed that Mother had inappropriate visits with Minor, which upset Minor. Based on the fact that reunification services had been terminated and the section 366.26 hearing was scheduled, it was in Minor's best interests to suspend visitation.

The section 366.26 report was filed on November 13, 2018. The permanent plan recommendation was adoption by Aunt and Aunt's 30-year-old son. Minor was developing normally, would have surgery to correct her lazy eye, and had benefitted from ongoing therapy. Minor loved Aunt, with whom she had been placed since October

2017. Mother had last visited with Minor on July 13, 2018. Aunt wanted to provide Minor with a stable home.

On November 20, 2018, Mother filed her section 388 petition, which will be discussed in detail, *post*. The petition was denied without an evidentiary hearing.

The section 366.26 hearing was held on January 28, 2019. Mother testified she had a strong bond with Minor and Minor called her “Mommy.” She cared for Minor every day until Minor was removed at age two. At visits Minor would come running to her, and they would play and color. They would go over the alphabet, colors and fruit. Minor would cry at the end of the visits. The social worker who had been assigned to the case since July 2018 testified. She had supervised four visits and sometimes Minor responded to Mother positively, sometimes negatively. Not all visits between Mother and Minor were appropriate, such as when Mother was dressed inappropriately, or would be demanding with staff; Minor would be scared. Minor identified Mother as her mother, and called her “Mommy.” Minor had a strong bond with Aunt and identified with her as “Nana.” The juvenile court terminated the parental rights of Parents and freed Minor for adoption. Mother filed a notice of appeal from the termination of parental rights and the denial of her section 388 petition.

DISCUSSION

Mother contends the juvenile court erred by refusing to grant an evidentiary hearing on her section 388 petition.

A. ADDITIONAL FACTUAL BACKGROUND

On November 20, 2018, Mother filed a section 388 petition requesting additional reunification services. Mother had enrolled in Open Door, and “Steps 4 Life,” which helped homeless women with children. She attended meetings for substance abuse and anger management. She provided that the “last few weeks” she had learned about prostitution and how she was kept in that lifestyle. She was attending a prostitution diversion program. Mother had a mentor. Mother insisted there was a strong bond between her and Minor. She had unconditional love for Minor. Mother insisted her progress in her classes would show Minor that she overcame adversity and was able to be her mother.

Mother attached a proof of enrollment in group therapy in October 2018 at the Central Valley Regional Recovery Center. She also provided proof of attending anger management and parenting classes in November 2018. She provided negative drug tests for October and November 2018 and an attendance sheet for AA meetings. She also had confirmation letters that she was enrolled in Steps 4 Life, which was providing transitional housing. Mother had moved into the housing on October 19. She also provided confirmation of enrollment in Open Door.” A San Bernardino County Sheriff’s Detective confirmed in a letter dated November 15 that Mother was making progress in the program. Further, there was a confirmation letter from her counselor confirming she attended therapy sessions in November 2018. She also had started an AOD (alcohol and other drug) treatment program at the Central Valley Regional Recovery Center on October 29 to address her substance abuse issues.

The Department filed opposition to Mother's section 388 petition. Minor was bonded with Aunt and had been with Aunt most of her young life. There was a parent/child bond between Aunt and Minor. Further, Minor had started preschool and was showing some delays; Aunt was a strong advocate for getting Minor help and Minor was improving. The Department commended Mother for beginning services, but she did not benefit from services during the time required for a child under the age of three.

Prior to hearing testimony at the combined section 388 and 366.26 hearing held on January 28, 2019, the juvenile court accepted further documents from Mother to support her section 388 petition as follows: certificates of completion of (1) a substance abuse program on January 25; (2) 10 sessions of anger management as of January 23; and (3) a 12-week parenting class on January 15. She also provided two letters dated January 23 confirming Mother's continued enrollment in Open Door, and that she was continuing to make progress in that program. A letter was also submitted on January 25, 2019, from the Central Valley Regional Center. Mother was continuing to be actively involved in AOD treatment. She was keeping her mental health and doctor's appointments. A letter confirmed she had attended regular therapy sessions since November 2018 with her therapist reporting Mother was focused on "issues related to managing her emotions, changing her life patterns, and reunification efforts." Mother also provided additional negative drug tests from December 2018 and January 2019.

The juvenile court inquired whether there was any further information regarding the section 388 petition other than that which had been filed. Mother's counsel requested an evidentiary hearing. Mother had demonstrated a "dramatic turnaround." She had

documentation showing all of her progress. Counsel sought to have Mother's therapist, her substance-abuse counselor, and a police detective who wrote a support letter, testify on her behalf. The Department objected to the section 388 petition. Although Mother was taking positive steps in her life, she had not shown she had benefitted from the services. She had "not much" in the petition addressing her mental health. Further, she only recently completed a substance abuse program so it was unable to determine if she had truly benefitted from the program. The Department requested that the juvenile court deny the section 388 petition on its face.

The juvenile court first commended Mother for taking positive steps and "changing things." It found there were circumstances that showed she was changing, but not changed. She had one letter from her therapist, but there was not any further information as to how she was addressing her mental health issues. Further, most of the items were completed by Mother just one week prior to the hearing, which was evidence of her "changing" but not of "changed circumstances."

The juvenile court then addressed whether it was in Minor's best interests to grant the section 388 petition requesting additional services. Initially, the juvenile court noted that Mother's visitation had been suspended in July 2018. At that point, Mother had not completed any of her services and missed nine random drug tests. There were serious mental health and anger issues with Mother that forced the juvenile court to terminate visitation. The juvenile court was uncertain as to what degree Mother's mental health issues had been ameliorated. Mother had only completed her substance abuse program three days prior to the section 366.26 hearing. There was no evidence presented of a

bond between Minor and Mother. The juvenile court denied the section 388 petition without a hearing finding only “changing” circumstances and that it was not in Minor’s best interests to grant the petition.

B. MOOTNESS

The Department contends Mother’s appeal is moot because the sole issue she raises in her opening brief is that the juvenile court erred by denying an evidentiary hearing on her section 388 petition—Mother raises no issue as to the correctness of the termination of her parental rights at the section 366.26 hearing. This court cannot provide effective relief to Mother because the failure to raise any issue pertaining to the correctness of the termination of parental rights renders that decision final.

“An appeal may become moot where subsequent events, including orders by the juvenile court, render it impossible for the reviewing court to grant effective relief.” (*In re E.T.* (2013) 217 Cal.App.4th 426, 436.) “[A] reviewing court may exercise its inherent discretion to resolve an issue rendered moot by subsequent events if the question to be decided is of continuing public importance and is a question capable of repetition, yet evading review. [Citations.] We decide on a case-by-case basis whether subsequent events in a juvenile dependency matter make a case moot and whether our decision would affect the outcome in a subsequent proceeding.” (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1404.)

“An order [terminating parental rights] is final when the time for appeal has expired and no timely appeal has been filed or the order has been appealed and affirmed.” (*In re Carrie M.* (2001) 90 Cal.App.4th 530, 533.)

The Department relies upon *In re Jessica K.* (2000) 79 Cal.App.4th 1313 to support its claim. In *Jessica K.*, the mother filed a section 388 petition seeking to have her daughter returned to her care five months after her reunification services were terminated. The juvenile court denied the petition. The mother's parental rights were terminated and her daughter was placed for adoption. On the same day as the section 366.26 hearing terminating her parental rights, the mother filed an appeal from the order denying the section 388 petition, *but not from the order terminating her parental rights*, which became final. (*Jessica K.*, at p. 1315.) The appellate court concluded that since the mother did not appeal from the order terminating her parental rights, and that decision was final, even if the denial of the section 388 petition was erroneous, the court could not afford the mother any relief. (*Jessica K.*, at pp. 1316-1317.) The Department also cites to *In re Carrie M.*, *supra*, 90 Cal.App.4th at pages 533 through 534, for the proposition that an order becomes final when the time for appeal has expired and no timely appeal has been filed.

Here, Mother's notice of appeal was from *both* the denial of her section 388 petition and the termination of her parental rights at the section 366.26 hearing. The Department has provided no authority for its argument that in this situation, where the pending appeal is from both the section 388 petition and the termination of parental rights, and the opening brief on appeal only raises the issue that the section 388 petition was erroneously denied, the appeal of the section 388 petition is moot. Further, we see no reason to further expand mootness to this situation as it would encourage appellants to

raise frivolous issues regarding the termination of parental rights to avoid such mootness. As such, we will review Mother's claim.

C. ANALYSIS

“Under section 388, a parent may petition to change or set aside a prior order ‘upon grounds of change of circumstance or new evidence.’ [Citations.] The juvenile court shall order a hearing where ‘it appears that the best interests of the child . . . may be promoted’ by the new order. [Citation.] Thus, the parent must sufficiently allege *both* a change in circumstances or new evidence and the promotion of the child’s best interests.” (*In re G.B.* (2014) 227 Cal.App.4th 1147, 1157, fn. omitted.) “A prima facie case is made if the allegations demonstrate that these two elements are supported by probable cause. [Citations.] It is not made, however, if the allegations would fail to sustain a favorable decision even if they were found to be true at a hearing. [Citations.] While the petition must be liberally construed in favor of its sufficiency [citations], the allegations must nonetheless describe specifically how the petition will advance the child’s best interests.” (*Ibid.*)

The summary denial of a petition under section 388 is only appropriate if the petition “fails to state a change of circumstance or new evidence that even *might* require a change of order.” (*In re Angel B.* (2002) 97 Cal.App.4th 454, 461.) In determining whether the petition makes the necessary showing, the juvenile court may consider the entire factual and procedural history of the case. (*In re Jackson W.* (2010) 184 Cal.App.4th 247, 258.) “[A]fter reunification services have terminated, a parent’s petition for either an order returning custody or reopening reunification efforts must

establish how such a change will advance the child's need for permanency and stability.”
(*In re J.C.* (2014) 226 Cal.App.4th 503, 527.)

“We review such rulings for abuse of discretion and may not disturb the decision of the trial court unless that court has exceeded the limits of judicial discretion by making an arbitrary, capricious, or patently absurd determination.” (*In re E.S.* (2011) 196 Cal.App.4th 1329, 1335; see also *In re B.D.* (2008) 159 Cal.App.4th 1218, 1228.)

The juvenile court did not abuse its discretion when it denied Mother's petition without a hearing. Mother failed to show *changed* circumstances or that it was in Minor's best interest to have the petition granted. Moreover, she did not establish how such a change would advance Minor's need for permanency and stability.

Here, Minor was initially detained in October 2017. In October and November 2017 Mother was arrested for prostitution and tested positive for marijuana. In June 2018, the Department recommended that reunification services be denied. Mother had been diagnosed with posttraumatic stress disorder and cannabis disorder. She attended therapy but was making slow progress. Between October 2017 and May 2018, she had six positive tests for marijuana. She also was arrested for prostitution three times. In April 2018, she declared she no longer wanted to participate in visitation and services and was not heard from by the Department until June 2018. It was further reported that in July 2018, she failed to appear for random drug tests and did not attend her substance abuse program. Here, reunification services were denied in July 2018.

After her reunification services were denied, the Department obtained an order suspending visitation between Mother and Minor in October 2018 due to her abusive behavior toward visitation staff and inappropriate and emotional behavior with Minor. Minor was visibly upset by Mother during visits. At that point, one year after the detention of Minor, Mother started to regularly attend substance abuse programs, anger management classes and prostitution diversion. She completed some of these programs mere days before the section 366.26 hearing. Mother did not present evidence of the extent that she had addressed her mental health problems.

Mother waited an entire year to begin addressing the issues that brought her to the attention of the Department. She provided little information in her section 388 petition as to the extent she had addressed her mental illness. Moreover, other than declaring her love for Minor, she had not provided any documents addressing the bond between Mother and Minor, and how granting her additional reunification services would be in the best interests of Minor. She failed to address how she would provide permanency and stability to Minor. The juvenile court did not abuse its discretion by denying Mother's section 388 petition without an evidentiary hearing.

Mother relies upon *In re Aljamie D.* (2000) 84 Cal.App.4th 424, 432 to support her claim that she made a prima facie showing of changed circumstances. In *Aljamie*, the children were detained from the mother based on her substance abuse problems, which caused her to neglect her children. In support of her section 388 petition, the mother provided evidence she completed numerous educational programs and parenting classes, had negative random drug tests for over two years, visited consistently with the children,

was strongly bonded with them, and the children expressed they wanted to live with their mother. Her section 388 petition was denied without a hearing. (*Id.* at pp. 427-429, 431-432.) The appellate court disagreed with the juvenile court. It concluded the mother had made a prima facie showing of changed circumstances and the best interests of the children, and was entitled to a hearing. (*Id.* at p. 432.)

Here, Mother had only started full participation in treatment a few months prior to the section 366.26 hearing, and only completed some of the services a few days prior to the section 366.26 hearing. She also provided very little information regarding her progress in addressing her mental health issues. As opposed to the mother in *Aljamie*, who tested clean for two years and had a strong bond with her children, Mother here was only beginning to make changes and had not visited with Minor for several months.

Moreover, Mother claims that the petition showed that it was in Minor's best interest to grant the petition because she loved Minor, and because of Mother's success in the services she completed she could provide a better life for Minor. However, due to Mother's erratic behavior, the juvenile court ordered that visitation with Minor be suspended. Mother had not visited with Minor since July 2018, and Minor had spent almost half of her life with Aunt. Mother had very little evidence of a bond between her and Minor. The juvenile court properly summarily denied Mother's section 388 petition

DISPOSITION

The juvenile court orders are affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

MILLER
Acting P. J.

We concur:

CODRINGTON
J.

SLOUGH
J.